

July 1, 1999

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON  
850 Union Bank of California Building  
900 Fourth Avenue  
Seattle, Washington 98164  
Telephone (206) 296-4660  
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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Transportation File No. V-2203  
Proposed Ordinance No. 1999-0281

**M & H INVESTMENTS**  
PETITION FOR ROAD VACATION

Road: That portion of 6th Avenue South abutting SR 509 on the west located in the Boulevard Park area.

Petitioner(s): M & H Investments  
Attn: Gerald Harkleroad  
14205 Southeast 36th Street, Ste 100  
Bellevue, WA 98006

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve
Department's Final:	Approve
Examiner:	Approve

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2203 was received by the Examiner on June 16, 1999.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2203 was opened by the Examiner at 9:30 a.m., June 30, 1999, in the Fifth Floor Conference Room, Union Bank of California, 900 Fourth Avenue, Seattle, WA 98164, and closed at 10:00 a.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

KEY TOPICS/ISSUES:

- Road vacation
- Vehicular access

SUMMARY:

Road vacation recommended for approval. Rear lot access issue resolved by merger of three abutting lots within petitioner's ownership.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	That portion of 6th Avenue South abutting SR 509 along the west boundary of 6th Avenue South. See maps attached to this Report and Recommendation.
Right of way classification:	"B"
Area:	18,600 square feet
Compensation:	\$13,950

2. *Except as provided below*, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the June 30, 1999, public hearing and the statement of facts contained in Substitute Proposed Ordinance No. 1999-0281, July 1, 1999, draft. The said report will be attached to the copies of this report and recommendation submitted to the King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.
4. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.
5. The department has received a check from the Petitioner for \$13,950 that has been cashed by the King County Department of Finance. This payment constitutes full compensation for the right of way due. See Conclusion No. 4, below.

CONCLUSIONS:

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, and the easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.
4. The Examiner's recommendation will include a substitute proposed ordinance that clearly acknowledges the Applicant's full payment of the compensation due.

RECOMMENDATION:

APPROVE proposed Substitute Proposed Ordinance No. 1999-0281 to vacate the subject road.

RECOMMENDED this 1st day of July, 1999.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 1st day of July, 1999, to the following parties and interested persons:

Gerald Harkleroad  
John Mortensen  
Puget Sound Energy/East Division  
Seattle City Light Co  
TCI Cablevision  
ValVue Water and Sewer District  
Water District #20  
Greg Borba  
Tommy Burdette  
Don Ding

Thomas Eksten  
Dennis Gorley  
Kristen Langley  
Roderick E. Matsuno  
Dave Preugschat  
Lydia Reynolds  
Charlie Sundberg  
Larry R. Underdahl  
Joe Wilson

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before July 15, 1999**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before July 22, 1999**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE JUNE 30, 1999, PUBLIC HEARING ON DEPARTMENT OF  
TRANSPORTATION FILE NO. V-2203, M & H INVESTMENTS PETITION FOR ROAD  
VACATION.

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Tommy Burdette, representing the County; and Gerald Harkleroad.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 Report to the Hearing Examiner dated June 4, 1999, with 29 attachments.
- Exhibit No. 2 Petition transmittal letter dated April 22, 1988 to the Department of Transportation, Road Services Division from the Clerk of the Council.
- Exhibit No. 3 Petition for vacation.
- Exhibit No. 4 Legal Description of the proposed vacation area dated December 11, 1987
- Exhibit No. 5 Copy of check #527 for non-refundable deposit
- Exhibit No. 6 Map depicting vacation area.

- Exhibit No. 7 Vicinity Map
- Exhibit No. 8 Copy of Warranty Deed to WSDOT recorded under Recording Number 6027703 in Volume 4786 of Deeds, Page 155, records of King County, Washington
- Exhibit No. 9 Copy of Warranty Deed to WSDOT recorded under Recording Number 5560739 in Volume 4389 of Deeds, Page 138, records of King County, Washington.
- Exhibit No. 10 Copy of State of Washington Highway Commission Deed from WSDOT to King County recorded under Recording Number 7612140587, records of King County, Washington.
- Exhibit No. 11 Letter dated December 12, 1988 from the Department of Public Works, Roads and Engineering Division to the Clerk of King County Council.
- Exhibit No. 12 Letter dated December 14, 1988 from the Clerk of the Council to the Real Property Division.
- Exhibit No. 13 Memorandum dated January 25, 1989 from Staff Appraiser to Manager of the Real Property Division regarding the 1989 amount of compensation.
- Exhibit No. 14 Letter dated January 26, 1989 from the Real Property Division to the petitioner indicating the amount of compensation due King County.
- Exhibit No. 15 Letter dated April 20, 1989 from petitioner to the Real Property Division requesting additional time to pay compensation.
- Exhibit No. 16 Letter (no date) stating that compensation will be paid in January, 1990.
- Exhibit No. 17 Letter dated June 23, 1995 requesting that File V-1993 is reactivated.
- Exhibit No. 18 Road Vacation Worksheet dated April 29, 1996 indicating the re-calculated 1996 compensation amount.
- Exhibit No. 19 Letter dated May 23, 1996 from Road Services Division to petitioner stating the revised compensation due the County.
- Exhibit No. 20 Letter dated October 25, 1996 from the Department of Transportation, of Road Services Division to the Clerk of the King County Council.
- Exhibit No. 21 Letter dated December 23, 1996 to petitioner from Road Services Division identifying 1996 amount of compensation.
- Exhibit No. 22 Letter dated November 24, 1997 from Road Services Division to petitioner regarding a reduced (1997) compensation amount, with revised worksheet attached and dated November 17, 1997.
- Exhibit No. 23 Letter dated September 17, 1998 from Road Services Division to petitioner regarding an increase (1998) compensation amount, with revised worksheet attached and dated August 27, 1998.
- Exhibit No. 24 Letter dated November 3, 1998 from petitioner to Road Services Division with check for compensation.
- Exhibit No. 25 Copy of Check Number 9776 in the amount of \$13,950.00.
- Exhibit No. 26 Facsimile dated April 13, 1999 from petitioner to Road Services Division staff, with copy of canceled Check Number 9776.
- Exhibit No. 27 Letter dated May 11, 1999 from King County Executive to Councilmember Louise Miller.
- Exhibit No. 28 Proposed Ordinance 1999-0281
- Exhibit No. 29 Notice of hearing and Affidavit of posting.
- Exhibit No. 30 Affidavit of publication.
- Exhibit No. 31 Communications between County and US West
- Exhibit No. 32 Photographic evidence of posting